

DOCKET FILE COPY ORIGINAL

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

In re Application of	)	MM Docket 94-88
	)	
COMMUNITY EDUCATIONAL ASSOCIATION	)	File No. BPED-930316MF
Holly Hill, Florida	)	
	)	
For a Construction Permit for a	)	
New Noncommercial Educational FM	)	
Station on Channel 212A	)	

RECEIVED  
OCT 27 1994

To: Honorable Joseph Chachkin  
Administrative Law Judge

**PETITION FOR LEAVE TO AMEND**

Community Educational Association ("CEA") by its counsel and pursuant to § 73.3522(b) of the Commission's Rules, offers a post-designation amendment to its application reporting its receipt of an Acknowledgement of Notice of Proposed Construction or Alteration (the "FAA Notice") with respect to its proposed site.

1. CEA amended its application to specify a new site on August 30, 1994. The amendment resolved the mutual exclusivity between CEA's application and the application of Cornerstone Community Radio ("CCR"). See Hearing Designation Order, DA 94-789, released August 2, 1994, (the "HDO"). The Presiding Judge accepted the amendment and granted the CCR application, leaving CEA as the sole applicant in this docketed proceeding. See Memorandum Opinion and Order, FCC 94M-521, released September 13, 1994 (the "MO&O").

2. Upon submission of its amendment, CEA filed an FAA Form 7460-1 with the Federal Aviation Administration ("FAA") so that a study of whether the proposed site would be a hazard to air navigation could be undertaken. The FAA has preliminarily

No. of Copies rec'd  
List A B C D E

AG

determined that without further study, the site will be presumed to be a hazard to air navigation.

3. CEA also reports that it has asked the FAA to conduct a further study, in accordance with FAA procedures, to determine the maximum height CEA can build its tower at that site and not be an air navigation hazard. The FAA has estimated that the further study will take 45 days to complete.

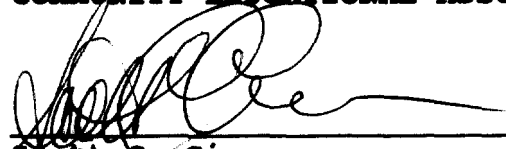
4. As this amendment is being offered more than 30 days after issuance of the HDO, § 73.3522(b) of the Commission's Rules requires a showing of "good cause" before it can be accepted. To satisfy the good cause inquiry, an applicant must demonstrate that it has acted with due diligence, that the amendment was not required by its voluntary act, that no additional issues or parties would be required, that the hearing process will not be disrupted, that there will be no prejudice to competing applicants and that the applicant will not gain a comparative advantage. See California Broadcasting Corp., 90 FCC 2d 800, 808 (1982), citing, Erwin O'Connor, 22 FCC 2d 143, 143 (Rev. Bd. 1970). CEA submits sufficient good cause exists to accept the amendment.

5. CEA submits that it has proceeded with diligence in that the FAA Notice was issued on October 24, 1994. The amendment is not the result of CEA's voluntary act, but is based on the FAA's initial examination of CEA's proposed site. CEA's application is the sole remaining applicant in this docket, and as a result, acceptance of the amendment cannot prejudice competing applicants, will not result in any additional parties or issues, and will not

disrupt the hearing process.<sup>1</sup>

WHEREFORE, it is respectfully requested that the Presiding Judge grant CEA's Petition for Leave to Amend and accept its proffered amendment.

Respectfully submitted,  
COMMUNITY EDUCATIONAL ASSOCIATION

  
\_\_\_\_\_  
Scott S. Cinnamon  
Its Counsel

BROWN NIETERT & KAUFMAN  
1920 N Street, N.W.  
Suite 660  
Washington, D.C. 20036

(202) 887-0600

October 27, 1994

---

<sup>1</sup> An air hazard issue has already been specified against CEA. See HDO, supra.

**COMMUNITY EDUCATIONAL ASSOCIATION**

**P.O. BOX 847**

**MAYAGUEZ, P.R. 00681**

RECEIVED

OCT 27 1994

October 27, 1994

Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Re: Application of Community Educational  
Association for New Non-Commercial  
Educational FM Station at Holly Hill, FL  
BPED-930316MF  
Amendment

Dear Sir/Madam:

I, Jose Mercado, President of applicant Community Educational Association, wish to amend our pending application for a new non-commercial educational FM Station to serve Holly Hill, Florida, by reporting receipt of the attached Acknowledgement of Proposed Construction or Alteration. CEA has initiated further study of the situation as the FAA suggested.

Sincerely Yours,

*Jose Mercado*

Jose Mercado, President  
Community Educational Association



U.S. Department  
of Transportation  
  
Federal Aviation  
Administration

Southern Region

P.O. Box 20636  
Atlanta, Georgia 30320

**ACKNOWLEDGEMENT OF NOTICE OF PROPOSED CONSTRUCTION OR ALTERATION**

CITY	STATE	LATITUDE/LONGITUDE	MSL	AGL	AMSL
ORMOND BEACH	FL	29-16-44.92 081-11-24.21	25	195	220

COMMUNITY EDUCATIONAL ASSOC  
GRAHAM BROCK, INC  
P. O. BOX 24466  
ST SIMONS ISLAND, GA 31522

AERONAUTICAL STUDY  
No: 94-ASO-2177-OE

Type Structure: ANTENNA TOWER 68.1 MHZ; 2 KW

The Federal Aviation Administration hereby acknowledges receipt of notice dated 08/24/94 concerning the proposed construction or alteration contained herein.

A study has been conducted under the provisions of Part 77 of the Federal Aviation Regulations to determine whether the proposed construction would be an obstruction to air navigation, whether it should be marked and lighted to enhance safety in air navigation, and whether supplemental notice of start and completion of construction is required to permit timely charting and notification to airmen. The findings of that study are as follows:

The proposed construction would exceed FAA obstruction standards and further aeronautical study is necessary to determine whether it would be a hazard to air navigation. Pending completion of any further study, it is presumed the construction would be a hazard to air navigation.

Further study may be requested by the sponsor within 30 days of this acknowledgement.

If the proposed structure were reduced in height to not exceed 115 feet above ground level (140 feet above sea level), it would not exceed Part 77 obstruction standards.

If the structure is subject to the licensing authority of the FCC, a copy of this acknowledgement will be sent to that Agency.

NOTICE IS REQUIRED ANYTIME THE PROJECT IS ABANDONED OR THE PROPOSAL IS MODIFIED

SIGNED Armando Castro Specialist, Systems Management Branch  
Armando Castro (404) 305-5588.  
ISSUED IN: College Park, Georgia 10/24/94

ANY HEIGHT GREATER THAN THE REDUCED HEIGHT SHOWN ABOVE WOULD IMPACT AIRCRAFT LANDING AT THE ORMOND BEACH AIRPORT. IN ADDITION, WE REQUIRE THAT YOU PROVIDE THIS OFFICE WITH A 2C SURVEY (+/-50' LATERAL, +/-20' VERTICAL) THAT WOULD VERIFY THE COORDINATES SHOWN ABOVE.

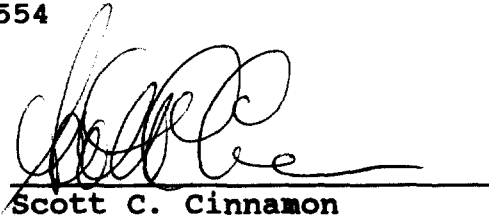
**CERTIFICATE OF SERVICE**

I, Scott C. Cinnamon, do certify that on this 27th day of October, 1994, a copy of the foregoing **PETITION FOR LEAVE TO AMEND** was sent via first class mail, postage pre-paid or delivered, as indicated, to the parties set forth below:

Honorable Joseph Chachkin  
Administrative Law Judge  
Federal Communications Commission  
2000 L Street, N.W., Room 221  
Washington, D.C. 20554 \*

Y. Paulette Laden, Esq.  
Hearing Branch  
Federal Communications Commission  
STOP CODE 1800C4  
2025 M Street, N.W., Room 7212  
Washington, D.C. 20554 \*\*

Chief, Data Management Staff  
Audio Services Division  
Mass Media Bureau, FCC  
1919 M Street, N.W., Room 350  
Washington, D.C. 20554



Scott C. Cinnamon

- \* - Hand Delivery
- \*\* - via FCC Mailroom